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Richard S. Wolters
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DOCUMENT CONTROL

February 9, 1999

Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

RE: Docket No. RT-0000J-99-0034

To The Commission:

Attached is AT&T's Motion to Dismiss U S WEST Communications, Inc.'s Application for Emergency Rulemaking on behalf of AT&T Communications of the Mountain States, Inc. in the above referenced matter.

Sincerely,

Richard S. Wolters

Attachment

cc: Certificate of Service

Arizona Corporation Commission
DOCKETED

FEB 10 1999

DOCKETED BY	
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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSIONED
AZ CORP COMMISSION

JAMES M. IRVIN
Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

FEB 10 2 10 PM '99

DOCUMENT CONTROL

In the Matter of Rules to Address Slamming)	DOCKET NO. RT-0000J-99-0034
And Other Deceptive Practices)	
)	AT&T'S MOTION TO DISMISS
)	U S WEST
)	COMMUNICATIONS,
)	INC.'S APPLICATION FOR
)	EMERGENCY RULEMAKING

AT&T Communications of the Mountain States, Inc. hereby submits its Motion to Dismiss U S WEST Communications, Inc.'s ("U S WEST") Application for Emergency Rulemaking ("Application"). As grounds therefore, AT&T states as follows:

I. INTRODUCTION

In its Application, U S WEST demands that the Arizona Corporation Commission ("Commission") ignore the fact that the Federal Communications Commission's ("FCC") new rules are not yet effective. It would have the Commission ignore the fact that the period for reconsideration and further comment has not passed. It would have the Commission ignore the fact that the FCC seeks further comment on certain issues related to the rules. Ultimately, it would have the Commission ignore that fact that the FCC's new rules are still subject to possible change and refinement before they become effective. In short, immediate implementation of the FCC's new rules is premature.

In addition, the Commission has statutory obligations to provide notice of proposed rulemaking along with the statutorily imposed timeframes for rulemaking. Here again, U S WEST would have the Commission ignore those obligations. As justification for this extraordinary action, U S WEST states “[i]mmediate implementation of the rules is warranted under state rules because, even as the FCC recognized, slamming is an important consumer issue that effects the public welfare.”¹ Yet, the FCC has not sought emergency implementation of its own rules, only U S WEST has. In fact, U S WEST’s Application makes clear that the necessity for emergency relief is driven by its claim that an immediate and overwhelming need exists to protect consumers from the allegedly deceptive acts of U S WEST’s competitors.

As U S WEST notes and AT&T agrees, intentional “slamming” is a form of deception. “Slamming occurs when a company changes a subscriber’s carrier selection without that subscriber’s knowledge or explicit authorization.”² And, on December 17, 1998, the FCC issued its newly adopted anti-slamming rules and asked for further comment. Although issued, the rules are not yet effective and will not be for at least three or more months.³

AT&T has a zero-tolerance policy for slamming, and has actively and extensively participated in the FCC’s proceeding to develop its anti-slamming rules. Moreover, AT&T is committed to adhering to those rules in their final form. It makes no sense for the FCC or this Commission to demand that carriers alter marketing materials or change

¹ Application, ¶ 5.

² *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 98-334, (rel. Dec. 23, 1998) at ¶ 1 (hereinafter “FCC Order”).

³ In fact, the FCC ordered dual tracks for effectiveness: 70 days after publication of the requirements and 90 days after publication of certain rules in Appendix A. FCC Order, ¶ 249.

verification procedures just to have to alter them again when the rules become final.

Nevertheless, U S WEST prematurely applies these rules to in-state toll competitors, and then, employing its poll, it declares that its competitors are engaged in "deceptive practices."

Indeed by revealing precious little about its poll and the underlying data, U S WEST makes unsupported assertions that AT&T and other reputable competitors are engaged in deceiving acts that may constitute "consumer fraud."⁴ To level such a claim against any company is a serious charge; to do so with no more support than a vaguely alluded to poll is highly inappropriate. Nor does such a poll provide legal support for the Commission to adopt rules outside its statutory rulemaking procedures.. In fact, this Application, along with the ten other proceedings filed by U S WEST in its other states, reveals the company's true motive. U S WEST seeks "emergency relief" to protect its existing revenue stream from intraLATA toll services from competition, and it hopes to accomplish this goal by manipulating Commissions to engage in hurried and premature adoption of the FCC's new rules and their immediate application to competitors.

Although claiming emergency measures are necessary to protect presumably all consumers, U S WEST filed proceedings only in states in which it is threatened by competition from dialing parity. Apparently, the emergency measures are only necessary where U S WEST may lose or is losing business to competition.

Thus, AT&T hereby requests that the Commission dismiss U S WEST's Application because immediate adoption of the FCC's new rules is premature, at best. Moreover, a "manufactured" emergency by a company that seeks to impede competition

⁴ Application, ¶ 18.

do not support the requirement of good cause to override the statutory obligations imposed upon the agency's rulemaking process.

II. ARGUMENT

The Commission should dismiss U S WEST's Application for three reasons: (1) the immediate application of the new FCC rules is premature; (2) the Commission lacks the necessary authority to implement the emergency rules and retroactively apply them such that any violations can be shown; and (3) there exists no bona fide "emergency" or "good cause" that warrants the exercise of such extraordinary relief.

I. Immediate Adoption and Implementation of the FCC's New Rules is Premature.

As stated above, although the FCC has issued its "adopted" rules, those rules are not yet effective under the law. They have not even been published in the Federal Register, which triggers the reconsideration and further comment period. 47 C.F.R. §§ 1.415 and 1.419. And, if persuaded by these subsequent filings, the FCC may adjust or amend its rules. As they currently stand then, the rules have no legal effect and bind no one. Moreover, the FCC seeks additional comment on various issues closely related to the rules; it states:

[w]e seek additional comment on several issues that either were not raised sufficiently ... or that require additional comment for resolution. Specifically, we seek comment on (1) requiring unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers; (2) requiring resellers to obtain their own carrier identification codes (CICs) to prevent confusion between resellers and their underlying facilities-based carriers; (3) modifying the independent third party verification method to ensure that this verification method will be effective in preventing slamming; (4) clarifying the verification requirements for carrier changes made using the Internet; (5) defining the term "subscriber" to determine which person or persons should be authorized to make changes in the selection of a carrier for a particular account; (6) requiring carriers to submit to the Commission reports on the number of slamming complaints received by such carriers to alert the Commission as soon as possible

about carriers that practice slamming; (7) imposing a registration requirement to ensure that only qualified entities enter the telecommunications market; (8) implementing a third party administrator for execution of preferred carrier changes and preferred carrier freezes.

FCC Order at ¶ 129. Clearly, the rules may under go some adjustment. Thus, if a Commission immediately adopts the rules, along with any additions or changes proposed by U S WEST, it is likely that the Commission will have to go back and change those rules once the FCC has its final say. This piecemeal method of rulemaking not only creates more work and extra burden for the Commission, but it also creates a hardship for the companies that must attempt to comply with a moving target.

Therefore, adopting and implementing the FCC's rules at this point is premature, at best, and exceedingly burdensome and confusing at worst. Rather than accepting U S WEST's invitation to the premature enactment of the FCC's rules, the Commission should merely dismiss the request.

II. The Commission Lacks the Necessary Authority to Implement the Emergency Rules and Retroactively Apply Them to AT&T, MCI World Com and Other Competitors of U S WEST.

In addition to being premature, the Arizona Administrative Procedure Act, A.R.S. § 41-1001 *et seq.*, mandates that the Commission apply prescribed time limits, notice requirements, comment periods and publication requirements to its rulemaking process. These procedural safeguards are in place so as to allow those affected by the proposed rules an opportunity to participate in their formation and an opportunity to adapt their practices to comply with new rules.⁵ In addition to the procedural safeguards, agencies are generally prohibited from retroactive application of newly adopted rules. In general,

⁵ Immediate adoption of the new FCC rules will bring many significant changes that U S WEST neglects to mention. For instance, the new verification rules will apply to in-bound calls from consumers, and companies will have to adjust all verification procedures to accommodate this change, among others.

the prohibition against retroactive application of new rules or laws prevents the adoption of laws or rules that would take away rights acquired under existing laws or create new obligations and impose new duties in relation to past transactions.

In its Application, U S WEST would have this Commission violate the legislative mandates on rulemaking procedure and retroactively apply the FCC's new rules to AT&T and other competitors. In particular, the Application states:

U S WEST wants to make itself clear. Through this request, U S WEST is simply requesting an order from this Commission implementing the FCC slamming rules *immediately* so that competition in the interLATA, intraLATA and local markets is fair, not fraudulent or deceptive.

Application, ¶ 25 (emphasis added). Thus, U S WEST seeks "immediate" application of the new obligations imposed by the FCC's rules to AT&T's current marketing material. In fact, U S WEST argues that because AT&T's current marketing materials purportedly violate the FCC's new rules, deceptive acts are occurring and emergency measures are necessary. *Id.*, ¶¶ 18 – 25. Not only is this a *non-sequitur*, but it is blatant retroactive application of newly adopted laws to previous transactions. Simply put, this type of retroactive application of federal laws that are not yet effective is not only unwarranted, but also beyond the power of this Commission, and such application is not a basis upon which the Commission can conclude that either a violation has occurred or that an emergency situation exists.

Moreover, this argument even assumes that U S WEST's assessment is correct that AT&T's marketing material violates the new rule. In fact, the marketing material complies with both the current FCC rules and the new rules. The letter of agency ("LOA") cited by U S WEST clearly identifies two separate services: "Long Distance Service and Local Toll Service (if available in my area)." The terms used in these

statements are terms customers can easily understand as opposed to the "LATA" language upon which U S WEST bases its arguments. In addition, U S WEST asserts that AT&T's use of a check coupled with its LOA is a violation of the FCC's rules and thereby unlawful and deceptive. *Id.*, ¶¶ 19-20. An examination of the rules, both current and future, however, shows U S WEST's argument is wrong. For example, the old and new FCC rules state:

[t]o the extent that a jurisdiction allows the selection of additional primary interexchange carriers (e.g., *local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange*), the letter of agency must contain separate statements regarding those choices, *although a separate letter of agency for each choice is not necessary* ...[italics represent newly adopted language or rewritten terms]

and

[n]otwithstanding paragraphs (b) and (c) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in paragraph (e) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

47 C.F.R. § 64.1150(e)(4) of the current rule and 47 C.F.R. § 64.1160(e)(4) of the new rules; 47 C.F.R. § 64.1150(d) of the current rule and 47 C.F.R. § 64.1160(d) of the new rules, respectively. Attached hereto as Exhibit A is a sample AT&T check.

Given that U S WEST supports its request for exemption from the legislative rulemaking procedures via misapplication of laws not yet effective, this Commission lacks the necessary authority to engage in an expedited rulemaking. For this and the reasons stated below, the Commission may not legally exercise any exemptions to its statutory obligations such that it has the necessary authority to immediately implement

the FCC's new rules and override of the statutory requirements in the rulemaking process.

III. U S WEST's Overstated Claims Do Not Constitute An "Emergency" Nor Imminent Substantial Peril Sufficient for the Commission to Implement An Emergency Exception to its Rulemaking Process.

Even the FCC has not sought an emergency exemption from the federal rulemaking procedures. In contrast to U S WEST's trumped-up claims, the FCC recognizes that "emergency" rules are an extraordinary measure to be used only in extreme circumstances under a show of "good cause." *See e.g., Capital Cities Communications, Inc. v. FCC*, 554 F.2d 1135, 1139 (D.C. Cir. 1976)(noting FCC's authority to exercise good cause exception to rulemaking requirements); *United States v. Garvilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977)(stating that "the good cause exception ... may not be arbitrarily exercised but requires legitimate grounds supported in law and fact by the required finding"); *Sannon v. United States*, 460 F. Supp. 458, 468 (S.D. Fla. 1978)(good cause exception to rulemaking timelines is strictly construed by the courts).

Likewise on the state level, the Commission must employ the proper administrative rulemaking procedure for adopting rules "unless the agency, submits substantial evidence that the failure to approve the rule as an emergency measure will result in imminent substantial peril to the public health, safety, or welfare." A.R.S. § 41-1026.A. As noted above, "good cause" cannot be an arbitrary determination; rather, there must be legitimate grounds in both law and fact supporting such a finding. *Gavrilovic*, 551 F2d at 1104. Should the Commission enact a rule without sufficient good causal support for overlooking the rulemaking procedures, the rule is invalid. *See* A.R.S. § 41-1030.A.

In its Application, U S WEST asserts that an "emergency" situation exists in the intraLATA toll market. It supports this assertion in basically two ways: (1) by claiming that its competitors' marketing materials are in violation of the FCC's new anti-slamming rules, and (2) by alleging that a secret poll, selectively revealed, proves that customers have been slammed by competitors, and in particular by AT&T. These bare allegations alone do not constitute imminent substantial peril nor prove that an emergency exists.

Turning to the first proposition, U S WEST's selective citing of its competitors' marketing material and selective reference to the FCC's new rules neither supports its allegations nor serves as adequate grounds for a finding of imminent substantial peril or emergency. Again, AT&T's marketing material is in full compliance with the FCC's current, effective rules. Thus, AT&T has not violated a law or engaged in consumer deception or fraud. Moreover, arguing about whether AT&T's current marketing material sufficiently separates the interLATA and intraLATA toll statements under the FCC's new rules does not create an "emergency" such that the Commission has grounds for a finding of imminent substantial peril.

Second, U S WEST's selective use of a dubious poll and its equally dubious results—like the purported FCC violations—support nothing and offer no grounds upon which the Commission can rest its finding of imminent substantial peril. Stated simply, U S WEST has failed to supply the necessary factual support for its request.

If the poll were a fair and accurate survey that indeed supported the claims U S WEST levels against AT&T and the need for emergency measures, U S WEST would have fully revealed the poll, its results and attached both to its filing. It did not. Instead, U S WEST refers to the poll's results while casting aspersions at its competitors.

There are no grounds upon which the Commission can conclude that the poll's construction and the surveys used were fairly aimed at eliciting accurate and representative data. There are no grounds upon which the Commission can conclude that the poll or the samples are statistically valid. There are no grounds upon which the Commission can conclude that the alleged sample of consumers is representative of Arizona consumers. There are no grounds upon which the Commission can conclude that AT&T's customers were confused by AT&T's LOAs and/or checks. Clearly, there are no facts upon which to base a showing of imminent substantial peril or find an emergency in U S WEST's Application.

In fact, there are grounds upon which to doubt the validity of U S WEST's poll. U S WEST sent a sampling of alleged slamming victims to AT&T and demanded an explanation. *See* U S WEST, Mark Roellig letter attached hereto as Exhibit B. Rather than waiting for a response from AT&T, Mr. Roellig's client, U S WEST, initiated numerous proceedings before utilities commissions making outrageous claims that AT&T's practices were tantamount to committing consumer fraud. *See e.g.*, Application, ¶ 18. It alleged, among other things, "even carriers whose names are quite familiar, such as AT&T and MCI, are currently slamming customers through the use of deceptive marketing practices that the FCC chastises and forbids."⁶ *Id.*

On January 28, 1999, AT&T sent a response to Mr. Roellig. *See* Marc Manly's letter attached hereto as Exhibit C. In that response, AT&T informed Mr. Roellig that of the 54 alleged slamming complaints in the U S WEST sample, AT&T had followed all applicable verification procedures on 53 of the claims, and AT&T had the appropriate

⁶ Neither this Commission nor the FCC have ever found that AT&T's LOAs are in violation of any existing rules nor has the FCC ever "chastised and forbidden" AT&T in the use of its LOAs.

back-up documentation to support the authorizations. Only one PIC change was unauthorized. As to that one, the unauthorized change occurred because of a mistake by U S WEST in executing the carrier change after the customer, who had signed an LOA, moved. Apparently after the old customer had moved, U S WEST switched the carrier of the new occupant rather than the former occupant.

If the remaining samples within U S WEST's poll are as equally erroneous as those contained within the AT&T sample, this Commission is at risk of being duped by U S WEST. More to the point, such data does not form the basis upon which legitimate grounds in law or fact exist to support a finding of imminent substantial peril to circumvent the normal rulemaking procedures.

There are no emergencies; there is no good cause. As previously stated, U S WEST's Application is nothing more than an unwarranted attack on its competitors aimed at protecting its dwindling revenues for intraLATA toll service. For example, U S WEST predicted in the Iowa 1+ intraLATA parity proceeding that, based upon its experience in other states, it would lose 22 to 40 % of its intraLATA revenue in the first year that dialing parity was available to its customers. *In re: U S WEST Communications, Inc.*, Iowa Department of Commerce, Utilities Board, Docket No. sPU-998-10, Direct Testimony of Max A. Phillips on behalf of U S WEST at 8. It went on to state that GTE lost 40 % of its toll revenue in Washington during the first nine months after it offered intraLATA toll dialing parity to its customers. *Id.* U S WEST did not contend that any of this loss was due to slamming.

Currently, U S WEST faces February implementation of dialing parity in Colorado, Montana, Nebraska, Oregon, Washington and Iowa. It has brought similar

proceedings in all these states. As for Minnesota, Arizona, Wyoming, Utah and New Mexico, the remaining states in which U S WEST has brought similar proceedings, 1+ intraLATA dialing parity has been in place for a substantial amount of time. In these states, AT&T has not experienced any significant increases in slamming complaints. And, interestingly, U S WEST waited upwards of three years, in Minnesota for example, to assert that an emergency existed. If U S WEST is successful in slowing the introduction of dialing parity and the onset of competition through scare tactics and frivolous filings, then it will have succeed in thwarting competition and maintaining its revenue stream for intraLATA toll calls. The Commission can prevent such an outcome by dismissing the Application.

To accuse a competitor of the consumer abuses that U S WEST alleges in its Application, is a serious matter. Such accusations when made with insufficient legal and factual support do not, and cannot, form the basis for emergency measures. Therefore, AT&T request that the Commission dismiss U S WEST's Application.

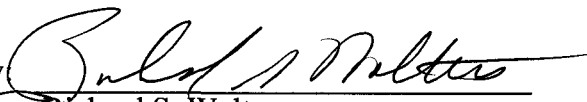
CONCLUSION

For the reasons and authorities set forth herein, AT&T respectfully requests that this Commission dismiss U S WEST's Application for Emergency Rulemaking.

Dated this 9th day of February, 1999.

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.

Richard S. Wolters
Maria Arias-Chapleau
1875 Lawrence Street, Suite 1575
Denver, Colorado 80202
(303) 298-6741

By 
Richard S. Wolters

CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the AT&T's Motion to Dismiss U S WEST Communications, Inc.'s Application for Emergency Rulemaking on behalf of AT&T Communications of the Mountain States, Inc., regarding Docket No. RT-00000J-99-034, were sent via overnight delivery this 9th day of February, 1999, to:

Arizona Corporation Commission
Docket Control - Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

and a true and correct copy was sent via United States Mail, postage prepaid, this 9th day of February, 1999, to:

Paul Bullis, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Timothy Berg
Theresa Dwyer
Fennemore Craig, P.C.
3003 North Central, Suite 2600
Phoenix, AZ 85012

Ray Williamson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Thomas Dethlefs
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202



EXHIBIT A



SIGNING, CASHING AND DEPOSITING YOUR CHECKS
YOUR LONG DISTANCE SERVICE AND MORE

NO. 00000001
Issue Date 11/4/98
Check expires 30 days
from date of issue

999999999 NQUV 026 N O 0

PAY TO THE ORDER OF:

John Q. Sample
Optional Address Line
Optional Address Line
Corporate Woods Drive
Bridgeton, MO 63044-3838



Twenty-Five and 00/100 DOLLARS

VOID

Attention: Financial institutions. This check is voided
with payee's signature to be valid for cashing and/or
deposit. Payee's name cannot be altered.

Amount not to exceed \$25.

Edward M. Dwyer

AUTHORIZED SIGNATURE
Citizens State Bank, Clara City, MN 56222

⑈00000000⑈ ⑆091904856⑆ 70 261 7⑈

NQUV 00000001

**Since you left us,
we're not the same.**

Dear John Q. Sample:

Good news! Today AT&T is even better than before. And when you see how much we've changed, you'll see there's never been a better time to be an AT&T customer. Here's some of what you can look forward to:

- A rock-bottom 5¢ a minute rate on all your weekend calls
- A check for \$25, yours to spend on anything you want
- Exceptional quality and world-class service

Let's look at these benefits one by one.

Now you can call anytime Saturday or Sunday for just 5¢ a minute.

That's right, with AT&T One Rate® Plus 5¢ Weekends you can make state-to-state direct-dialed long distance calls from home for just 5¢ a minute all weekend long for your first six months and 10¢ a minute weekdays.* After six months, you'll continue to enjoy 5¢ Sundays and 10¢ a minute Monday through Saturday. All for just a \$4.95 monthly fee. No restrictions.

**Simply sign and cash the attached \$25 check to switch to AT&T.
Or call 1 800 833-0442, ext. 64696, today and we'll even switch you for free.**

It's a real check, good for \$25 — all it needs is your signature. There's no catch. Call us today and we'll switch you to AT&T Long Distance Service and, if available in your area, AT&T Local Toll Service,† for free right over the phone. Then just cash your check within 30 days and spend the money as you please.

You're assured of world-class service.

And AT&T has thousands of helpful long distance operators ready to assist you with person-to-person, collect, and international calling. You'll also receive credit for all misdialed numbers upon request.

So switch to AT&T for the service and quality you deserve when you call long distance. And remember, the sooner you switch, the sooner you'll enjoy all the benefits of being an AT&T customer.

Sincerely,

Steve Hefflin

Steve Hefflin
AT&T Marketing Manager

P.S. A check for \$25. Plus 5¢ weekends. Call today and we'll even switch you to AT&T for free.

Call 1 800 833-0442, ext. 64696, today.

It's all within your reach.



Please see important information on the back.

Due to the following change, your deposit of this check authorizes you to allow charging and/or depositing of this check and if available in my area, to cash both my residential Long Distance and if available in my area, Local Toll Services to AT&T and notify my local telephone company of my decision.

I understand that for each of these services I may designate only one carrier per service for the telephone number listed on this check. My local telephone company may charge me a fee(s) to switch these services. **CHECK VOID IF ALTERED.**

Phone Number

150 be known as in-state long distance, local long distance
151 al, or shorter distance calls.

C-VC1.4

EXHIBIT B

U S WEST, Inc.
1301 California Street, Suite 4750
Denver, CO 80202
Phone 303 896-9874
Facsimile 303 238-6783
Cellular 303 507-9874
E-Mail markr@uswest.com
Home 303 840-0038
Home Facsimile 303 840-0031



Mark Roetting
Executive Vice President
Public Policy, Human Resources & Law
General Counsel and Secretary

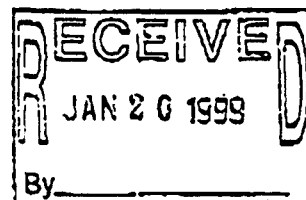
January 8, 1999

Mr. Joe Priddy.
Senior Attorney
Law and Government Affairs
AT&T
131 Morristown Road
Room B2010
Basking Ridge, New Jersey 07920

Dear Mr. Priddy:

I am writing you to request information regarding the change in the primary interexchange carrier of a sample of our customers. By way of explanation, we are requesting this information because, as you are aware, many, many customers have indicated to U S WEST that they have been slammed by a change in their intraLATA carrier without their knowledge, consent or understanding. Since the implementation of 1+ presubscription for intraLATA services in Arizona, Minnesota, New Mexico, Utah, and Wyoming, I am told that roughly sixty percent of the customers who have had their intraLATA presubscription carrier changed, allege that they had not requested or authorized a change in their intraLATA carrier from U S WEST. Based on the pending new rules from the Federal Communications Commission, U S WEST may have to advise these customers that they need not pay your firm's intraLATA charges during the thirty days following the change, and a complex, time consuming review could follow.

We think it is imperative for both of us to understand and address the reasons for this customer response. We are very confident of our information, and with such an enormous percentage of the customers expressing surprise and disclaiming any knowledge of the change in their LPIC, we see very real and significant problems and risks to both of our businesses and our industry.



Moreover, when we review the marketing material from AT&T and other carriers, and as we hear about telemarketing contacts by AT&T telemarketing representatives and those of other carriers, we share our customer's concerns regarding the information that is being provided to these customers, and the manner in which the sales contacts are being conducted. While the results of our customer contacts present a real, practical concern to both our companies, we think the main concern ought to be with the affected customers. Customers are rightly concerned about these issues, and we know of no consumer advocate or regulatory agency that will accept circumstances where customers are misled, misinformed, or confused by the marketing of products and services that are so important to their lives.

As you no doubt remember, in the regulatory proceedings that led to 1+ presubscription in each of the five states, the Commissions, their staffs, and the participants were concerned about the fairness and integrity of customer contacts. Based on our findings, it appears that there is something wrong in the customer contact. And, it appears that there may be a failure to comply with the letter and spirit of the Telecommunications Act, the existing and pending rules of the FCC, and the rules of the state regulatory commissions. Essentially, over sixty percent of intraLATA customers in the five states where 1+ presubscription has been implemented seem to be saying that they have been slammed with respect to the change in their LPIC.

Moreover, if these customers are confused and have not been provided with the necessary information to make a decision, the state laws that prohibit consumer fraud, including the suppression or omission of material facts, and both federal and state laws that forbid deceptive and unfair trade practices and conduct are implicated.

Thus, I am writing to you to secure the proof of authorization or verification for the change in the primary interexchange carrier that is required by existing and pending rules of the Federal Communications Commission for the telephone accounts identified on the attachment to this letter. Also, for the reasons I outlined above, I want you to provide me with other data and information that shows the practices AT&T follows to secure a customer's change in the primary carrier for intraLATA service (the so-called LPIC) to AT&T within the states served by U S WEST. The attached list is a random sample of telephone accounts that AT&T requested be changed from LPIC Number 5123 to AT&T during the past year, and who subsequently indicated to U S WEST that they did not authorize or request that change. We are requesting this information, before taking further action, so we can effectively deal with an increasingly complex, time consuming issue. We need to examine and evaluate the actual evidence or proof of authority and verification that was obtained by the carriers, to confirm or contradict the information that we are getting from the customers. I believe that the information on the enclosed list is adequate to find the required proof of authorization or verification, however, if you need further information, please let me know.

Mr. Joe Priddy
January 8, 1998
Page 3

We will appreciate your prompt response to this request, and we look forward to receiving the evidence and other information by January 15, 1999. And, if you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to be "M. Priddy", written in a cursive style.

Enclosure

cc: Beth Halvorson
Martha Solis-Turner

CARRIER	ST	TEL NO	TEL NO	ST	TEL NO	ST	TEL NO
0288-AT&T	AZ	5202039324	5207781859	MN	2182264920	UT	4356288221
		5202810878	6022421718		3203522003		4356733438
		5202841501	6022683029		3206297774		4357231993
		5202894135	6022766119		6126821308		4357232360
		5203780181	6023369869				4357533902
		5203783414	6023629010				8012239158
		5204281861	6024823376				8012262411
		5204286720	6025690507				8012507152
		5204738197	6028429671				8012508720
		5204745908	6028661833				8012520903
		5204746660	6029312312				8012553449
		5205672213	6029381530				8012771012
		5205741861	6029720003				8012777744
		5205862818	6029846279				8014677428
		5206247207	6029969487				8017335317
		5206329630					8017734251
5206392300			8017857640				
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EXHIBIT C



Marc E. Manly
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January 28, 1999

Mark Roellig, Esq.
Executive Vice President
Public Policy, Human Resources & Law
General Counsel and Secretary
U S WEST
1801 California Street
Suite 4750
Denver, CO 80202

Dear Mr. Roellig:

I am in receipt of your letter of January 8, 1999 to Joe Priddy concerning slamming complaints involving AT&T.

AT&T takes all slamming complaints very seriously, including the claims referenced in your letter regarding alleged unauthorized PIC changes from U S WEST's intraLATA toll service to AT&T's competing offers. As you know, AT&T has a zero tolerance policy for slamming and we have been the industry leader in recommending rules and procedures to reduce the incidence of slamming. As to the 54 alleged slamming complaints you cite, we have confirmed that AT&T followed all applicable procedures for verifying the customers' request to switch their service to AT&T. Although you assert that the customers "subsequently indicated to U S WEST that they did not authorize or request that change," 30 of the 54 changes occurred by means of outbound telemarketing, all of which are subject to Third Party Verification of the customer's request. The other PIC changes were based on our receipt of a written Letter of Authorization ("LOA") from the customer, or from an inbound call to AT&T initiated by the customer.

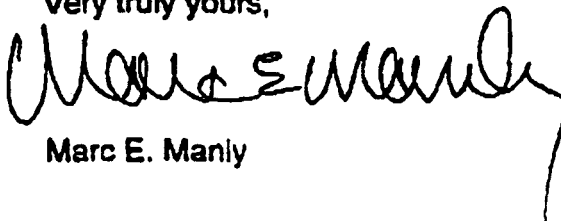
With the exception of one instance, we believe that no unauthorized PIC changes have occurred. As to that instance, the unauthorized change appears to have occurred as a result of a mistake by U S WEST as the executing carrier, as follows. AT&T submitted to U S WEST a valid, signed LOA to change the customer's PIC to AT&T. While that order was pending at U S WEST, the customer moved and terminated his service. It appears that U S WEST reassigned the telephone number to a

new customer and mistakenly processed the AT&T PIC change on the reassigned number. Despite the fact that it was U S WEST's mistake, AT&T reversed the PIC change, paid for your PIC change charges, and rerated the customer's bill when the customer with the newly-assigned number contacted us.

We agree with you that, as an industry, our mutual "main concern ought to be with the affected customers." With all due respect to your expressed interest of proceeding in that regard, it appears, however, that U S WEST's principal interest in this matter is to pursue an orchestrated campaign using unsubstantiated claims about slamming in an attempt to preclude or delay regulatory measures designed to promote competition within U S WEST's monopoly territories. For example, simultaneous with your letter of January 8 to AT&T, I understand that you sent similar letters to other interexchange carriers who are now competing for intraLATA service in the five states that have implemented 1+ presubscription. As part of this campaign, U S WEST commenced a media effort in other states that have not yet implemented presubscription in an attempt to delay or abandon altogether opening your intraLATA monopoly to competition. U S WEST has likewise made regulatory filings in several states, seeking emergency rules or relief to protect U S WEST's monopoly position on the basis of your unsubstantiated claims of slamming.

Slamming is a serious problem for which AT&T has no tolerance whatsoever, and as to which we have been actively involved in developing rules and procedures to eliminate the problem and to punish offenders. It appears that your expressed interest in protecting customers against slamming is instead a self-interested exercise in grandstanding designed to protect U S WEST. If U S WEST is indeed seriously seeking to promote customers' interests, I invite you to join AT&T in extending intraLATA presubscription so that consumers can have the benefit of competitive offers, and to work with us in developing efficient procedures for implementing the FCC's recently-enacted rules for reducing slamming and creating a neutral third party PIC administrator so that competitive tactics and strategies are removed from the entire PIC process. Please give me a call if you would like to proceed on these constructive points that truly serve customers.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Marc E. Manly", with a long, sweeping vertical line extending downwards from the end of the signature.

Marc E. Manly